



STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 1249

PERMIT 2273

APPLICATION 4484

THIS IS TO CERTIFY, That **J. A. Bennett of Walnut Creek, California**

Notice of Assignment (Over)

has made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of **Potato Slough in San Joaquin County**

tributary of **Mokelumne River**

for the purpose of **irrigation use**

under Permit **2273** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **February 11, 1925;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **one and fifty-one hundredths (1.51) cubic feet per second** from about March 1st to about December 1st of each season. In case of rotation the equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights. 27

The point of diversion of such water is located **No. 1, North five degrees West (N 5° W) nineteen hundred twenty-five (1925) feet; and No. 2, West nine hundred fifty (950) feet from the center of Section 24, T 3 N, R 4 E, M.D.B. & M.; No. 1 being within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , and No. 2 within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 24.**

A description of the lands or the place where such water is put to beneficial use is as follows:

4.0 acres within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 24, T 3 N, R 4 E, M.D.B. & M.			
25.0 "	"	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	" " " "
40.0 "	"	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	" " " "
13.5 "	"	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	" " " "
33.6 "	"	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	" " " "
0.2 "	"	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	" " " "
6.8 "	"	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	" " " "
<b>121.1 acres total.</b>			

As there is a possibility that there will not be sufficient water in San Joaquin River during the latter part of the irrigation season to satisfy all requirements, this license is issued subject to the express condition that the use hereunder may be regulated by the Division of Water Resources during such periods of water scarcity to the end that such use will not interfere with rights under prior applications.

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The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described. 1

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

SUC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated; but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become, as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and providing, further, that when such municipality shall desire to use the additional waters granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public

Works of the State of California, this 16th

day of February, 1933

[SEAL]

EDWARD HYATT  
State Engineer

By Harold Conkling  
Deputy

4/10/50 RECEIVED NOTICE OF ASSIGNMENT TO Ellis Jean Mc Garvie,  
Bennett Hammond, Edwyna Pomerance, Virginia  
Holt, & Emma Skemp

12/9/50 RECEIVED NOTICE OF ASSIGNMENT TO Int J Bennett  
Hammond to Bray Hammond

12/14/57 RECEIVED NOTICE OF ASSIGNMENT TO Domenico  
Josephine Ippolito & James &  
Elizabeth Van Dyke

2-7-63 Name chge from Domenico  
Ippolito to Estate of Domenico Ippolito  
5-23-63 Name chge from Elizabeth Van Dyke to  
Elizabeth Van Dyke Williams

5-23-63 RECEIVED NOTICE OF ASSIGNMENT TO Int of James Van Dyke &  
Elizabeth Van Dyke Williams

10/27/66 Quarantined to  
RECEIVED NOTICE OF ASSIGNMENT TO Josephine Ippolito &  
Eliz. Van Dyke Williams

1-20-72 RECEIVED NOTICE OF ASSIGNMENT TO John & Edwin Molini

LICENSE 1269

STATE OF CALIFORNIA

DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE  
TO APPROPRIATE WATER

ISSUED TO J. A. Bennett

DATED February 16, 1933

5890 4-32 14" CALIFORNIA STATE PRINTING OFFICE

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STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 4454

PERMIT 2273

LICENSE 1269

ORDER TO CORRECT  
DESCRIPTIONS FOR THE POINTS OF DIVERSION  
AND PLACE OF USE, AND  
ADDING CONDITION TO THE LICENSE

WHEREAS:

1. License 1269 was issued to J.A. Bennett on February 16, 1933 pursuant to Application 4454.
2. License 1269 was subsequently assigned to Elmer J. Molini and Hermoine Molini.
3. A field inspection of the project on April 5, 1990 by the State Board staff determined that the descriptions for the two points of diversion and place of use were incorrectly described and should be corrected.
4. The Board has determined that said corrections will not initiate a new right nor will operate to the injury of any other lawful user of water and that good and sufficient cause has been shown for said corrections.
5. The license condition pertaining to the continuing authority of the Board should be added to conform to the current common law trust doctrine contained in Title 23, of the California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The descriptions for points of diversion No. 1 and No. 2 be corrected to read:

Point of Diversion No. 1: South 740 feet and West 3,000 feet from the NE corner of projected Section 24, T3N, R5E, MDB&M, being within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 24, also described by the California Coordinate System in Zone 3, N 584,100 and E 1,715,200.

Point of Diversion No. 2: South 2,640 feet and 3,200 feet from the NE corner of projected Section 24, T3N, R5E, MDB&M, being within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 24, also described by the California Coordinate System in Zone 3, N 582,000 and E 1,175,400.

(0000002)

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2. The description for the place of use be corrected to read:

Reduce the place of use by 6 acres, i.e. from 121.1 to 115 acres as follows:

- 1.0 acre, within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ ;
- 30.0 acres, within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ ;
- 5.0 acres, within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ ;
- 40.0 acres, within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ ;
- 24.0 acres, within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ ;
- 10.0 acres, within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$ ;
- 5.0 acres, within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , all within projected Section 24, T3N, R5E, MDB&M: as shown on a map on file with the Board. (0000004)

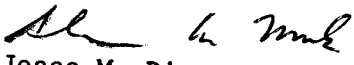
3. The continuing authority conditions for this license be added to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: JUNE 27 1991

  
for, Jesse M. Diaz, Chief  
Division of Water Quality  
and Water Rights

3/25/91 assigned to Elmer J. Molini and  
Hermoine Molini

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